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09/899,079

07/05/2001

Constance Elaine Lewis

3537

24985 7590 09/24/2007
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| EXAMINER |
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LARSON, JUSTIN MATTHEW

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| ART UNIT | PAPER NUMBER |
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3782

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09/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/899,079

Applicant(s)

LEWIS, CONSTANCE ELAINE

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Petition to Revive

1. The decision made on 6/12/07 to revive this application is noted.

Information Disclosure Statement

2. The listing of references in the specification filed 10/9/01 is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the grommet of claim 6 and mechanical fasteners of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6, 7, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (US 4,558,807 A) in view of Brayton (US 3,526,238 A).

Regarding claim 1, Jackson discloses a carrying case (10) for an umbrella (11) comprising an outer sleeve (22) made of decorative material and comprising a first open end defining a first access opening for receiving a folded umbrella, an inner liner (20) of waterproof material (vinyl) disposed inside, and co-axially with, said outer sleeve, said inner liner comprising a first open end defining said first access opening for receiving said folded umbrella, and a carrying strap (13) attached to said outer sleeve. Jackson fails to disclose the carrying case being conical. Brayton, however, also discloses an umbrella case and teaches that the case is conical as it is tube-like and wider at the top

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than at the bottom (see Figures). It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the case of Jackson with a conical shape, as taught by Brayton, in order to better match the conical shape of a folded umbrella and prevent the umbrella from moving around within the case.

Regarding claim 6, the inner lining (20) of the modified Jackson case includes a second open end at an apex of said outer sleeve.

Regarding claim 7, the modified Jackson case includes a grommet (14) at the apex of the outer sleeve.

Regarding claim 12, the carrying strap (13) of the modified Jackson case is attached to the outer sleeve proximate said first open end. The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure the modified Jackson case that is capable of being used in the intended manner, i.e., carried by the strap (13) such that the first open end is higher than the apex end. There is no structure in the modified Jackson case that would prohibit such functional intended use (see MPEP 2111).

6. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson in view of Brayton as applied in paragraph 5 above, and further in view of Sholl (US 2,597,194 A).

The modified Jackson case includes the claimed features except for a pouch pocket defining a second access opening, where the pouch pocket is disposed between

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the outer sleeve and the inner lining, the second access opening comprises a slit, and the pouch is detachable by mechanical fasteners.

Sholl, however, also discloses a case (10) having an outer sleeve and an inner lining (29) and teaches that a pocket (34) is disposed between therebetween. The pocket has a slit opening (near 33) formed in the outer sleeve and is attached by mechanical fasteners (36) that allow the pouch to be removed. Sholl teaches that this pocket allows for easy access to items other than those stored in the main compartment of the case. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a pocket like that taught by Sholl into the modified Jackson case, between the outer sleeve and the inner liner, so that a user could store items other than an umbrella in the case and have easy access to those items without have to open the main compartment where the umbrella is stored.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson in view of Brayton as applied in paragraph 5 above, and further in view of El-Edwy (US D393,742 S).

The modified Jackson case includes the claimed features except for the carrying strap comprising two attachment points proximate the first open end. The strap as taught by Jackson includes one attachment point proximate the open end and one attachment point proximate the apex end. El-Edwy, however, also discloses an umbrella case and teaches that a carrying strap has two attachment points located proximate the open end of the case. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the strap attachment points of the modified

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Jackson case both proximate the open end of the case, as taught by El-Edwy, since such strap attachment is already known in the art. To choose between known strap attachment configurations is within the level of ordinary skill in the art.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
9/12/07


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER